IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5080 OF 2003
IN
CRIMINAL REVISION APPLICATION NO.478 OF 2003

Mr.Mohan Hari More .. Applicant

Vs.

Mrs.Sujata Mohan More & Ors. .. Respondents

Ms.Ameeta Kuttikrishna h/f Mr.S.D.Khot for the applicant

Ms.V.R.Bhosale, A.P.P. for the State

**CORAM : J.N.PATEL &**
**A.A.SAYED, JJ.**

**DATED : 21ST JUNE, 2007**

P.C.:

1. Heard the learned counsel for the parties.

2. The respondent wife was required to file an application for seeking maintenance on the ground that the petitioner husband has refused and neglected to maintain her and that she is unable to maintain her. The matter was contested by the petitioner by raising a preliminary issue that

there has been no marriage between the parties and that he is not responsible for maintaining the respondent wife. The Family court found that the respondent applicant wife had proved her marriage and is entitled for maintenance @ Rs.1000/- per month and by judgment and order dt.29.7.99 awarded maintenance w.e.f.1.8.99.

3. Thereafter, the wife was again required to move the Family Court by filing an application u.s.127 of the Cr.P.C. for seeking enhancement of maintenance on the ground that at the time her application for maintenance was allowed, the petitioner was earning a sum of Rs.3000/- per month and that now he is earning more than Rs.8000/- per month by way of his salary from the employer as he is working in the Health Department of the State Government and in addition to increase in salary, he has also received arrears due to implementation of the 5th Pay Commission. Further, when the order of maintenance was passed, at that time, the parents of the respondent were alive and dependent on him but at present they are no more. Therefore, taking into consideration the increase in the

general level of prices particularly that of essential commodities, the amount of maintenance be increased from Rs.1000/- per month to Rs.1500/- per month.

4. The petitioner denied the claim of the respondent wife for maintenance and came out with a defence that she is earning and also took the ground that he has to maintain his sister and therefore, the application deserves to be rejected.

5. The Family Court on appreciation of the evidence found that the respondent wife is entitled for maintenance. The learned counsel for the petitioner husband submits that merely increase in the general level of price does not entitle the wife to claim maintenance as the increase in general level of price has also affected the petitioner husband.

6. The petitioner being a government servant is already taken care of by the employer by implementing the 5th Pay Commission to meet the increase in the general level of prices. If the

same parameters are applied with then the increase of maintenance from Rs.1000/- per month to Rs.1500/- per month is negligible. In our opinion, maintenance would include food, shelter, clothing, medical expenses and sundry expenses which in the present will cost even much more than Rs.1500/- per month.

7. In so far as the second contention of the petitioner that he has to maintain his sister, even taking that into consideration, we do not find that the learned Judge of the Family Court has committed any error or illegality in enhancing the maintenance amount of a meagre amount of Rs.500/-. Therefore, we do not find any reason to interfere in the impugned order. The Revision Application stands dismissed with costs.

**( SHRI J.N. PATEL, J )**

**( SHRI A.A. SAYED, J )**